

Statement of Sen. Chuck Grassley  
Finance Committee Hearing, "Tax Reform Options: Incentives for Charitable Giving"  
Tuesday, October 18, 2011

Mr. Chairman, Ranking Member Hatch, as I have done at other tax reform hearings this year, I would like to use my time today to make a statement rather than ask questions and also to make a request.

President Bush's tax reform advisory panel recommended expanding the charitable deduction to all taxpayers with a 1 percent floor. The Simpson-Bowles commission also recommended a floor and makes it available to all taxpayers but converts the deduction to a credit. Thus, the various tax reform proposals preserve the incentives for charitable giving in some form.

Let me say briefly that the President's proposal to cap itemized deductions is not a tax reform proposal. A cap on itemized deductions doesn't close any loopholes.

It just discriminates against higher income taxpayers. Studies measuring the elasticity of giving indicate that higher income taxpayers are more sensitive to changes in the tax rules. Simply put – the tax increase resulting from limiting itemized deductions, including the deduction for charitable giving, will result in less money for charity.

Separately, in the context of tax reform, this committee should examine the type of organizations that benefit from the incentives for charitable giving, regardless of how the incentive is structured. Specifically, we should consider whether it makes sense for donors to receive the same tax benefit for giving even though the standards for charitable status are vague.

Mr. Colinvaux proposes severing the ties between the charitable deduction and the requirements for tax-exemption. Let me provide an example that might make the case for this proposal.

During our tenure as Chairman and Ranking Member, the Chairman and I worked together to curb abuses of tax-exempt status and charitable deductions. This ranged from limiting abusive deductions for contributions of vehicles and clothing to applying private foundation rules to certain supporting organizations and donor-advised funds.

However, we did not close all the loopholes regarding supporting organizations as we were waiting on a study by the Treasury Department. This study is now four years overdue. In the meantime, the recent Solyndra scandal highlights the need for further reforms in this area.

I wrote to the Treasury Secretary and the IRS Commissioner today about the George Kaiser Family Foundation, a key investor in the now-bankrupt Solyndra solar energy company. Mr. Chairman, I request unanimous consent that this letter be inserted in the record.

This organization converted from private foundation status to a supporting organization about ten years ago. If it had remained a private foundation, it likely would not have been able

to invest as much as it did in Solyndra or the other private equity or hedge funds it invested in. It also would have been subject to strong restrictions on self-dealing and excise taxes on its investment income.

Most relevant to today's conversation, the donors who contributed \$1 billion in cash and securities, including non-publicly traded securities, over the past three years would have been subject to lower limits for deductibility if it had remained a private foundation.

As some of the testimony today highlights, deductions for donations of cash and publicly traded securities to public charities is limited to 50% of adjusted gross income and 30% for other non-cash donations. These percentages drop to 30% and 20% if the donations are to a private foundation.

So, with Solyndra, the government didn't just lose out on its investment through the \$535 million loan guarantee. It also lost out on the tremendous subsidy it provided the George Kaiser Family Foundation through the charitable contribution deduction.

Separately, our review of donor advised funds and university endowments shows that, since the last major overhaul of the tax-exemption rules in 1969, there has been an explosion in asset-accumulating public charities that are not subject to pay-out requirements or the other private foundation rules.

As a result, Mr. Chairman, Senator Hatch, as you continue to schedule tax reform hearings, I ask that you schedule one to examine the standards for tax-exemption and the increasingly blurred line between public charities and private foundations.